

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3137 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.G.BALAKRISHNAN and  
MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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SHAIKH ABDUL MAJID ROJIKHA

Versus

OFFICER ON SPECIAL DUTY

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Appearance:

MR MA KHARADI for Petitioner

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CORAM : MR.JUSTICE K.G.BALAKRISHNAN and  
MR.JUSTICE J.M.PANCHAL

Date of decision: 20/04/98

ORAL JUDGEMENT

The petitioner is owner and in possession of property comprising Survey nos.266,430,431 and 456 of Shahera Village. The State Government took steps under the Land Acquisition Act to acquire the land belonging to the petitioner. Notification under Section 4 of the Act was published on 15-2-1994 and notice under Section 4(1)

was issued on 4-3-1994. The petitioner raised objection contending that the land is agricultural land and the other lands are available for the public purpose and that the petitioner's land may not be acquired as he would be deprived of his agricultural property whereby losing his only source of income. Section 6 declaration was issued on 11-7-1995. Thereafter an award also has been passed fixing the compensation payable to the petitioner. The petitioner now contends that the entire acquisition proceedings are illegal and the petitioner's property shall not be acquired. He has prayed to quash the award passed on 4-11-97 in respect of property comprising Survey no.456. He has also prayed for other incidental reliefs.

We have heard the petitioner's counsel. The Counsel for the petitioner submitted that the petitioner had been holding several items of agricultural land and many of these lands were acquired and there was only agricultural land left as his source of livelihood, and therefore, the present acquisition proceedings are illegal and violative of the provisions of the Constitution. It may be noted that the petitioner's objections were heard when Section 5 inquiry was conducted and declaration under Section 6 was issued as early as 11-7-1995. The petitioner did not file any writ petition challenging the declaration issued under Section 6 of the Act. The contention of the petitioner that his source of livelihood is lost by acquiring his agricultural property cannot be accepted. Right to property is no longer a fundamental right, and therefore, the contention of the petitioner that the acquisition proceedings are violative of the provisions of the Constitution cannot be accepted. The petitioner is legally entitled to the compensation fixed by the Land Acquisition Officer.

This Special Civil Application therefore has no merits and is dismissed.

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